

National Implementation of Waste Permitting Obligations in Various European Countries

Nicoleta Kaitazis



National Implementation of Waste Permitting Obligations in Various European Countries

Nicoleta Kaitazis

Helsinki 2016

MINISTRY OF THE ENVIRONMENT



Ympäristöministeriö
Miljöministeriet
Ministry of the Environment

REPORTS OF THE MINISTRY OF THE ENVIRONMENT 29^{en} | 2016
Ministry of the Environment
Environmental Protection Department

Layout: Government Administration Unit, Publications / Marianne Laune
Cover Photo: Image bank of the Environmental Administration / Wilma Hurskainen

The publication is available on the internet:
<http://julkaisut.valtioneuvosto.fi/>

Helsinki 2016

ISBN 978-952-11-4633-6 (PDF)
ISSN 1796-170X (online)

FOREWORD

The Finnish Government is taking a number of measures in order to support the transition to sustainable bioeconomy and circular economy. Important means contributing to this direction are smart environmental regulation and smooth permitting procedures. The aim is to reduce administrative burden and improve permit procedures without compromising the protection of human health and the environment.

This study commissioned by the Ministry of the Environment is a part in a series of projects aiming at simplifying the waste permitting procedures in Finland. In the context of this study, a questionnaire was sent to all EU Member States in order to collect information on their waste permitting practices. Moreover, the waste permitting procedures in England, the Netherlands and Denmark were more thoroughly analyzed. The report demonstrates different solutions in the implementation of the Waste Framework Directive (2008/98/EU) and highlights some of the most interesting details in the permitting schemes potentially applicable in Finland.

The study was conducted at the Finnish Environment Institute by Ms. Nicoleta Kaitazis under instruction of Mr. Jussi Kauppila. The project was carried out under the supervision of Ms. Riitta Leinen, the Ministry of the Environment. The Ministry expresses its thanks to the author, as well as the experts in England, the Netherlands, Denmark and other EU Member States for their valuable contribution to the preparation of this report.

Helsinki 14 October 2016

Ministry of the Environment

TABLE OF CONTENTS

Foreword	3
Summary	7
List of Abbreviations	8
List of Figures	8
List of Tables	8
I Introduction	9
1.1 Research Objective	9
1.2 Overview of the European Waste Legislation	10
1.3 Previous Research	11
2 Waste Permitting in Selected EU Countries	14
2.1 Finland	14
2.1.1 Principal Legislation and the Scope of Permit	14
2.1.2 Waste Permitting	15
2.1.3 Public Consultation	16
2.1.4 Competent Authority and Length of Procedure	17
2.2 England	17
2.2.1 Principal Legislation and the Scope of Permit	17
2.2.2 Waste Permitting	20
2.2.3 Consultation	21
2.2.4 Competent Authority and Length of Procedure	22
2.3 The Netherlands	23
2.3.1 Structure of Legislation and Scope of permit	23
2.3.2 Waste Permitting	24
2.3.3 Public Consultation	26
2.3.4 Competent Authority and Length of Procedure	27
2.4 Denmark	28
2.4.1 Structure of legislation and the scope of permit	28
2.4.2 Waste Permitting	29
2.4.3 Public Consultation	31
2.4.4 Competent Authority and Length of Procedure	32
3 Conclusions	33
3.1 Evaluation of Results	33
3.2 Implications for the Finnish Waste Permit Scheme	35
Bibliography	37
Documentation page	40
Kuvailulehti	41

SUMMARY

The aim of this report is to identify the waste permitting and implementation policies of the Waste Framework Directive within various countries of the European Union. The report was commissioned by the Ministry of the Environment of Finland and it is part of a larger policy restructure aiming to lighten the administrative burden of waste permitting. The overall aim of the policy restructure is to streamline and uniform the waste permit procedure.

The report takes a glance at the national waste and environmental legislation of four preselected European countries: Finland, England, The Netherlands and Denmark. Every country and area is studied independently and while aiming to give an overall picture of the permitting scheme, the report focuses on particularly interesting points of each legislation, such as the various permit possibilities, exemption regulations and the procedure of public hearing. The report also takes a look at how some of the key concepts have been identified by the national legislator. In addition to academic literature, administrative personnel were interviewed in matters relating to their national legislation. The chapters have been cross checked by a government official of each country.

Denmark is seemingly the closest to Finland in terms of waste permitting regulations. It has also integrated the permit obligations of the Waste Framework Directive into its already existing environmental permit. The Netherlands and England stand out by having two alternative permits, one for larger and complex waste management facilities, which are often also regulated by the Industrial Emissions Directive, and another for smaller waste operations. There is a distinction between an IED-permit and a WFD-permit. Differences are also perceived in the amount of exempted operations from permit requirements.

The study indicated that Finland could reduce the administrative burden by expanding the scope of exempted waste operation from permit requirements and subjected to a registration procedure. Alternatively, Finland could follow the example of England and the Netherlands by creating a separate waste permit for smaller scaled waste operations and thus, separating the permit obligations of the Waste Framework Directive and the Industrial Emissions Directive. The lighter permit could also be standardised, and if an operation cannot comply with the rules, an environmental permit must be applied. Similarly, the use of internet module seems to be a very popular method in all the countries studied. Finland has already taken action in establishing its own Internet Module for submitting environmental permits.

LIST OF ABBREVIATIONS

AIM	Activities Decree Internet Module (NL)
APPA	All-in-one Permit for Physical Aspects (NL)
BGL	Order of Environmental Permitting (DK)
DEPA	Environmental Protection Agency (DK)
EA	Environment Agency (UK)
EMA	Environmental Management Act (NL)
EPR	Environmental Permitting Rules 2010 (UK)
EU	European Union
IED	Industrial Emissions Directive
OBM	All-in-one Permit for Physical Aspects Limited Environmental Impact Assessment (NL)
RPS	Regulatory Position Statement (UK)
YSL	Environmental Protection Act (FIN)
WA	Waste Act (FIN)
Wabo	The Environmental Licensing (General Provisions) Act (NL)
WFD	Waste Framework Directive

LIST OF FIGURES

Figure 1 Environmental permitting in Finland.....	16
Figure 2 Types of permits in England	19
Figure 3 Environmental permitting in the Netherlands	24
Figure 4 Relationship between regulating levels.....	29
Figure 5 Operations subjected to permit and registration procedure	31

LIST OF TABLES

Table 1 Results from the questionnaire conducted by the Finnish Environment Institute	12
Table 2 Summary of key findings.....	34

1 Introduction

1.1

Research Objective

Waste is one of the most polluting substances affecting the environment. On average 2,5 billion tons of waste is produced in the European Union, later EU, alone¹. Most of waste produced derives from economic activities, accounting for more than 92% of all produced waste². In order to control waste treatment within the EU, several EU Directives have been issued aiming to reduce the generation of waste and to improve waste management. This has been accomplished by introducing waste permit obligations to establishments and undertakings handling waste.

This report was preceded by a questionnaire conducted in late 2015 by the Finnish Environment Institute, which gathered specific information regarding the permitting of waste treatment activities in EU Member States. This report is a continuum of the previous work, but reflects the topic in a more detailed and qualitative manner, highlighting some of the most interesting points from the Finnish perspective.

The objective of this report is to:

1. provide an overview of the national implementation of article 23 of the Waste Framework Directive (2008/98/EU), later WFD, regarding the permit requirements for establishments and undertakings in various EU countries
2. further examine the content of these permits while simultaneously identifying the significant differences between Member States.

Due to the extent of the subject, this report does not thoroughly cover all the aspects of the matter, but rather provides a general understanding of waste permit schemes in Member States. The report lays down how some of the EU countries have interpreted the implementation obligations of the Directive. Additionally, the report compares the implementation of the WFD and the Industrial Emissions Directive (2010/75/EC), abbreviated as IED. Overall, this report aims to produce information about the general structure and specific qualities of the permit scheme in selected countries. Additionally, unless otherwise stated, when referred to an exempted waste operations it means an operation that is exempted from permit requirements according to Article 24 WFD and is thus subject to registration.

¹ European Commission: Waste

² Eurostat: waste statistics 2012

The report contains three chapters: the first chapter is an introductory chapter, which lays out the main objectives of the report and sets relevant research questions. It also briefly describes the main regulatory rules of the WFD and its requirements for Member States, and introduces previous study results. Chapter 2 goes into detail how the selected EU Member States have implemented the permit obligations. It describes the permitting schemes of Finland, England, the Netherlands and Denmark. Finally, the concluding chapter, chapter 3, gathers all the key findings by conducting a comparative analysis and highlights ways to lighten the Finnish permit scheme.

1.2

Overview of the European Waste Legislation

In the last few decades, the EU has become more aware of the dangers of waste not only to the human health but to the environment. As a result, the Union has established various measures to attain lower levels of waste production and increased amount of waste recovery measures, especially within the commercial market.

The aim of the WFD is to unify the waste policies within the EU countries and to transform EU into a recycling society.³ The WFD came into effect in 2008 and it provides the general framework for the waste management requirements to the EU countries⁴. The purview of the directive targets commercial waste management as according to the directive *establishments and undertakings which intend to carry out waste treatment must have a permit* (WFD Article 23(1)). Waste treatment has been defined as the *recovery or disposal operations on waste, including preparation prior to recovery or disposal* (WFD Article 3(14)). Consequently, countries are obligated to guarantee that an appropriate permit procedure is enforced within each country.

Member States are given the opportunity to combine the permit procedure required by the WFD with an already existing national legislation in order to avoid duplication and repetition of work. The Directive also allows Member States to exempt from given permit procedure operations regarding the *disposal of non-hazardous waste at the place of production or recovery of waste*. Even so, the WFD lays down the conditions to exempt: when an establishment or an undertaking is not required to apply for permit, they are subject to general rules and registration. Additionally, dealers and brokers of waste, and establishments and undertakings, which collect or transport waste on professional basis are subject to registration. Registered establishments and undertakings are subject to inspection and they must keep record of their activities in respect of waste. (WFD Article 26).

The Industrial Emissions Directive (2010/75/EC) was adopted in 2010 and it regulates pollutant emissions from industrial installations.⁵ The Directive lists industrial activities that exceed fixed limiting values and thus, should be monitored under a permit procedure: *Member States shall take the necessary measures to ensure that no installation or combustion plant, waste incineration plant or waste co-incineration plant is operated without a permit* (IED Article 4(1)). Included in the list are installations that primary work with waste management. Waste management means *the collection, transport, recovery and disposal of waste, including supervision of such operations and the after-care of disposal sites, and including actions as a dealer or broker* (WFD Article 3(9)).

³ HE 199/2010, p. 28.

⁴ European Commission: EU Waste Legislation

⁵ European Commission: The Industrial Emissions Directive

Member States are allowed to independently decide what type of permit procedure aforementioned the installations, establishments and undertakings have to undergo while at the same time complying with the requirements of the Directives. This has led to numerous procedural choices within the EU as we shall see in coming chapters.

A number of waste management operations are also subject to additional permit and inspection requirements from other Directives such as the Landfill Directive (1999/31/EC) and Waste Electrical and Electronic Equipment Directive (2012/19/EU) to mention few⁶.

1.3

Previous Research

As abovementioned, the implementation of the WFD, as well as the IED, has various forms in the EU. The *Finnish Environment Institute* conducted a questionnaire in autumn 2015 gathering information of the permitting procedures of all Member States⁷.

An important aspect of the questionnaire, as well as of this report, is to look at the interpretation differences regarding the terms “undertaking” and “establishment” between Member States. Neither the WFD nor other related manuals have explicitly defined the terms. The questionnaire showed that most of the Member States have also not defined the terms in their national legislation. Countries such as **Estonia, Austria, Malta, Portugal, Bulgaria and Slovenia** have interpreted the subjectivity to hold a permit to a *natural* or a *legal person*. The terms are very broad and are not limited to a level of professionalism or size. However, **Slovenia, Portugal and Bulgaria** specified in their answers that the permit obligation is tied to the registration into the national Trade Registry. **Lithuania, Spain and Sweden** indicated in their answers that *enterprises, companies and operators* are subject to a permit. In **Sweden** the terms *operator and facility* are used instead of establishment or undertaking. Only facilities, which have a measure of technical nature, are subject to permit. If an activity cannot be regarded, as a facility it does not have to obtain a permit, thus some activities according to the Swedish legislation might fall out of the scope of the permit requirements. Sweden indicated in its response that the terminology has caused some discussion on whether all activities fall under the scope of the Ordinance or not. **Belgium**, on the other hand, has only defined the term establishment in their legislation. In conclusion, the interpretation of the subjectivity to hold a permit is *relatively extensive* all around the EU. The majority of the countries indicated that the obligation to hold a permit arises from the type of operation done within the company. The questionnaire did not provide a comprehensive answer to whether some waste treatment operations have been left out from the permitting obligations.

The permitting policies of Member States have also been examined by the *European Commission* in 2012. The Guidance report reflected the implementation policies, application and enforcement of several Directives into the national legislation of the EU Member States. Regarding the WFD, most of the countries have implemented **a two- or threefold authorisation system**. The vast majority of the Member States, according to the research, have three different authorisation categories: IED permit, WFD permit and registration. The Guidance report showed that the majority of countries have segregated the IED-permit obligations and the WFD-permit obligations.

⁶ European Commission: The Guidance, 2010, p. 17.

⁷ 10 Member States who replied to the questionnaire were Estonia, Lithuania, Belgium, Malta, Slovenia, Spain, Austria, Portugal, Sweden and Bulgaria.

Most often the permit procedure according to WFD is lighter compared to the one subject to IED regulations.⁸

The research conducted by the Finnish Environment Institute indicated similar results. Most of the Member States declared that they have two separate permits: an IED-permit and a WFD-permit. **Bulgaria, Lithuania, Malta, Portugal and Spain** expressed they have two different permits which one complies with the IED and another, usually with a lighter procedure, that complies with the WFD. Generally waste management operations falling into the scope of both IED and WFD are not required to have two permits. In **Slovenia** waste permit and IED permits can be combined to form a single permit. Smaller waste treatment operations with a lower risk to the environment, which do not fall into the scope of the IED, are given a permit based on the WFD regulations. However, various countries have in accordance with the one stop shop principle⁹ included the procedure of the waste permit into their already existing permit procedures. Countries such as **Estonia, Belgium, Sweden and Austria** reported to have an integrated environmental permit.¹⁰

The questionnaire also looked at the possibly to license operators conducting several activities with a single permit. The results were variable. In **Lithuania and Slovenia** a single permit can be granted for *multiple activities and locations*. However, in most countries the permit is *location specific*. In **Belgium, Spain, Austria and Malta** a permit can be issued for several activities if conducted by the same operator in the same location. **Estonia and Sweden**, on the other hand, expressed in their responses that the permit is given to each activity and operation, thus a single permit for all activities in the same location is not possible.

Table 1. Results from the questionnaire conducted by the Finnish Environment Institute.

Country	Subject to permit	Definition of undertaking	Definition of establishment	Combining Permits
Austria	A legal or natural person.	Any natural or legal person that collects or treats waste.	A waste treatment facility.	One permit for multiple facilities if the applicant and the location are the same.
Belgium	All establishments that dispose waste and some that recover, store and transfer waste.	Not defined.	Factory, workplace, storage depot, machine, installation, equipment, and activities which are listed in the classifications list.	Single environmental permit for multiple facilities/operators if at the same location.
Bulgaria	All natural or legal persons carrying out waste management activities.	An organisation with several establishments under their control.	Any natural or legal person registered as merchants.	One permit for multiple sites on one RIEW-territory.
Estonia	A natural or a legal person.	Not defined.	Not defined.	Individual waste permits for each facility/installation.

⁸ European Commission: The Guidance 2010, p. 39

⁹ One stop shop principle means that various services are provided under the same location.

¹⁰ Finnish Environment Institute 2015

Country	Subject to permit	Definition of undertaking	Definition of establishment	Combining Permits
Lithuania	Enterprises carrying out waste treatment.	Term enterprise is used: a natural entity carrying out individual activity; legal entity, other organisation or their subdivision.	An enterprise.	A single permit for an enterprise with multiple facilities.
Malta	Any site carrying out waste management operations.	A legal or natural person.	A site.	Each location needs a separate permit. Multiple operations can be combined.
Portugal	All waste treatment activities.	An organisation that may have several establishments under their management/ control.	An undertaking.	A single permit for operations in the same location or facility.
Slovenia	All recovery or disposal of waste activities.	Legal person (PLC and LLC), sole trader.	Legal person (PLC and LLC), sole trader.	A single permit for multiple operations.
Spain	Undertaking that carries out recovery or disposal operations and facilities where these recovery and disposal activities are carried.	A company performing waste treatment operations.	A facility where the waste treatment operations are performed.	A single permit if the owner and the location are the same. Also possible if the operator and facility are the same.
Sweden	All waste management facilities.	Not defined. The term operator is used.	Not defined the term "facility" is used.	A single permit if multiple facilities can be regarded as one unit.

2 Waste Permitting in Selected EU Countries

The report compares more closely the permitting scheme of four Member States. Additionally to Finland, the report also examines the permitting schemes of England, Denmark, and the Netherlands¹¹. The research is based on publically available materials, as well as interviews with local government officials.

2.1

Finland

KEY FINDINGS

- Subject to permit are all professional and industrial waste treatment operations
- Twofold permitting system: an environmental permit and registration.
- Average procedural time for an environmental permit: 17,3 months
- Competent authorities Regional State Administrative Agency, the Municipal Authority of Environmental Protection and the Centre of Economic Development, Transport and the Environment as the Regional Supervisory Authority

2.1.1

Principal Legislation and the Scope of Permit

The obligations set by the WFD have been implemented into the Finnish national legislation through the Waste Act (646/2011), later WA, and the Environmental Protection Act (527/2014), nationally referred to as YSL. The WA defines waste and regulates registration procedures for professional transportation and for brokers, complying with WFD Article 26. Additionally, WA sets general rules for the registration of dealers and brokers, and sets conditions for approval. The Environmental Protection Act, on the other hand, regulates the permit procedure for waste treatment by setting general permit requirements and procedural rules for registration for operations exempted from permit procedure. It is applied to operations, listed in Appendix 1 and 2 of the Act, which cause or can cause environmental pollution, and to operations that produce, recover or treat waste (YSL 27§).

¹¹ The Member States chosen for this paper have been selected on the interest of the Ministry of the Environment. The three Member States have a strong environmental legislation, yet all have approached waste permitting from different angles making it an interesting comparison.

According to the national interpretation, subject to an environmental permit are all waste treatment activities done in a **professional or industrial manner** (YSL Appendix 1 Part 13). The subjectivity to hold a permit is meant to correspond to the WFD Article 23 terms of “undertaking” and “establishment”. The legislation does not set a quantitative determination or a limit to the duration of an activity. Instead, the need for a permit is evaluated according to the nature and extent of the operation. Conducting waste treatment operations in a professional manner has to involve receiving compensation for the work done, while the size of operation, orderliness, monitoring, surveillance, machinery and business premises have an effect on whether an operation can be regarded as industrial¹². In other words, the Finnish regulator has understood the terms “undertaking” and “establishment” broadly resulting into a strict interpretation of operations not subjected to a permit.

2.1.2

Waste Permitting

Finland took the opportunity provided by WFD Article 23(5) to combine the required waste permit with an already existing one, forming one single environmental permit. Simultaneously, the environmental permit combines the permit obligations of the WFD and IED into one single environmental permit. Thus, the waste treatment activities, regulated under WFD, are subject to an environmental permit based on the YSL 27§. The **uniform permit scheme** allows the submission of one application to all types of activities, including IED and WFD operations, which could cause environmental degradation and are conducted on the same site. Nevertheless, an operator applying for a permit based on IED waste management regulations is subject to a more extensive permit procedure than those operators who solely apply based on WFD regulations. Moreover, a substantive change in the operations requires a new permit if the emissions or environmental impact of the operation change essentially (YSL 29§).

In Finland the environmental permit is bound to a specific location. In other words, the permit is property-specific and thus, applicants who wish to operate in multiple locations must apply for a permit for each location separately. However, the applications of different activities that are geographically close to one another and have a significant joint impact to the environment are processed and decided together if the competent authority is the same, unless it is seemingly unnecessary (YSL 46§). Similarly, applications for activities in the same site can be submitted separately or jointly, and the competent authority must consider and resolve the applications simultaneously (YSL 41§ and 46§).

The YSL also enforces the national **exclusions** to permit requirements. These exclusions are based on scope of the WFD. Five types of waste treatment activities have been excluded from attaining a permit: 1) the recovery or disposal in agriculture and forestry operations of natural, non-hazardous waste of vegetal origin deriving from the industry’s own operations, 2) the recovery of treated, non-hazardous sludge from wastewater or septic tanks, manure, or non-hazardous ashes or cinders as soil improvement material or fertilizer according to the Fertiliser Product Act (539/2006), 3) the recovery in energy production operations of natural, non-hazardous waste produced in agriculture and forestry industry, 4) the treatment of extractive waste in peat extraction and in other extraction activity of inert waste or non-hazardous soil waste according to the waste management plan in connection with the said activity in any other way than by investing the waste in an extractive waste facility resulting in the danger of a major accident, and 5) the recovery of excavated soil in an excavation area during the remediation of contaminated soil. (YSL 32.1§)

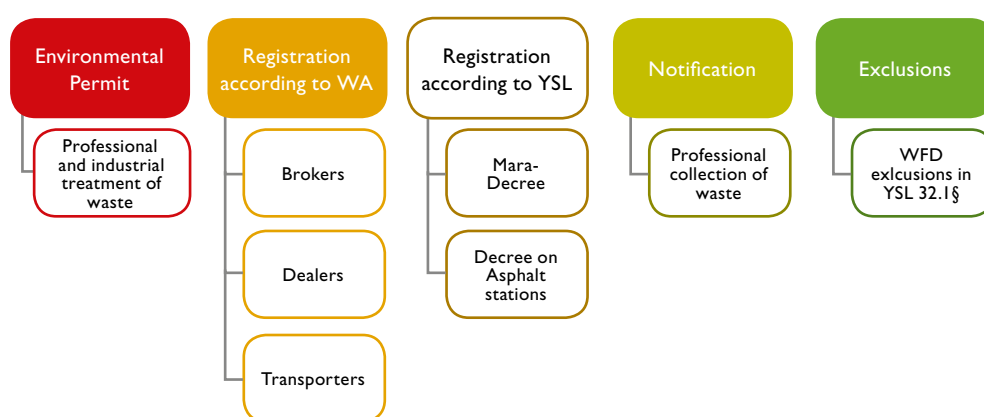
¹² Memorandum of the Ministry of the Environment 2014, p. 9. Also look Kuusiniemi & al. 2015, p. 79.

Additionally, Finland has **exempted** two types of **waste recovery operations** from permit requirements according to the Article 24 WFD: exempted are the recovery of certain wastes in earth construction and the use of asphalt waste by an asphalt station. The general rules are specified in the so-called **MARA-decree**¹³ (591/2006) and the **Decree on Asphalt stations** (846/2012). These operations are subject to a notification procedure to the database of environmental protection.

Registration

As noted before, brokers, dealers and transporters are subject to a **registration procedure**, regulated by the WA. Operations have to apply in advance for the approval of the waste management register (WA 94§). However, the professional collection of waste is subject a *lighter procedure*, having only the obligation to **notify** the municipal authority of environmental protection of the place of business (WA 100§).

Figure 1. Environmental permitting in Finland.



Furthermore, the operator might need to apply for a water permit (Water Act 587/2011), a building permit (Land Use and Building Act 132/1999) and/or a chemical safety permit (Act on the safety of dangerous chemicals and explosives 390/2005), which all have an independent permit procedure from the environmental permit and thus require a separate application.

2.1.3

Public Consultation

Finland has a strong public consultation principle. According to the Finnish Constitution (731/1991, 21§) everyone has the right to be heard and have their case dealt with appropriately. Thus before the competent authority casts a decision, the relevant parties have an opportunity to submit their comments, statements and further information on the matter to the competent authority (Administrative Procedure Act 434/2003, 34 §).

The public proceeding begins by publicising the submission of the application in newspapers of general circulation, notice boards of relevant municipalities and to the competent authority's Internet pages for **30 days** (YSL 44§). Additionally, parties that are thought to be interested in the matter are also informed. The competent authority will request an opinion on the application from municipal environmental protection authorities in municipalities where the environmental impacts from the operations could arise, authorities who protect the public interest and other parties (YSL 42§).

¹³ The MARA-Decree is applied to specific operations defined in the order, if the operation is executed in accordance to, for instance, valid street plans or road plans.

2.1.4

Competent Authority and Length of Procedure

The competent authorities in Finland are the Regional State Administrative Agency and the Municipal Authority of Environmental Protection (YSL 34§). The competency between the two competent authorities has been divided according to the Environmental Protection Decree (713/2014) so that the Regional State Administrative Agency regulates operations that potentially have a significant environmental impact and the Municipal Authority of Environmental Protection regulates all the rest. Moreover, the Environmental Protection Decree lists in a more precise manner which operations fall under the authorisation scope of the Regional State Administrative Agency. Altogether, there are four (4) regional agencies and 212 municipal authorities¹⁴. Additionally, the Centre of Economic Development, Transport and the Environment acts as the Regional Supervisory Authority.

The Regional State Administrative Agencies have set a target for the time of hearing: the application process should last at the most 10 months. However, studies have shown that in most cases the decision will be given within 17,3 months¹⁵. The competent agencies have in recent years been subject to cost cuts in resources of personnel, which further contribute to the long granting period.

2.2

England

KEY FINDINGS

- Subject to permit are all waste operations
- Threefold permitting system: two types of permits and registration.
- Extensive application of Art 24 WFD -> list of exempted operations with general rules. Excluded are operations that pose the lowest possible risk to the environment and human health
- Competent authorities: Environment Agency and Local Authority.

2.2.1

Principal Legislation and the Scope of Permit

The United Kingdom is comprised of England, Wales, Scotland and Northern Ireland, and it represents a common-law jurisdiction. England, Wales, Scotland and Northern Ireland each form an independent area of jurisdiction. This report focuses on the waste legislation in England, excluding Wales, Scotland and Northern Ireland.

England has accomplished an extensive permit scheme regarding waste management. The environmental permit scheme is threefold containing two types of permit options based on WFD and IED regulations and a registration procedure. Operations are regulated under the Environmental Permitting Regulations (England and Wales) 2010 SI 2010/675.

Holding an environmental permit are obligated all activities or operations that could pollute air, water or land, and are covered by the term **regulated facilities**¹⁶.

¹⁴ The Ministry of the Environment: Project 1 2016, p. 6.

¹⁵ The Ministry of the Environment: Project 1 2016, p.6. This applies to all environmental permits.

¹⁶ EfW Development Guidance 2012, p. 34.

Regulated facilities, in respect to waste management, are installations, waste operations, mining waste operations, small waste incineration plants, and mobile plants¹⁷. The English regulator has named the activities of an establishment and an undertaking, subject to a permit under the WFD Article 23, as **waste operations**. Waste operations include all recovery or disposal activities. In England, the interpretation of an “establishment” or an “undertaking” can include any organisation, such as a company, partnership, authority, society, trust club charity or other organisation, but does not include private individuals¹⁸. Additionally, the term undertaking has been interpreted to mean the same as in the WFD (EPR, paragraph 2 of Part 1). Furthermore, for an operator wanting to operate a waste activity, the operator should be considered as the **legal and competent operator**. Being a legal operator means the applicant must apply for a permit as a *legal entity*, which can mean an individual, public limited company, private limited company, government body or a limited liability partnership. Competency on the other hand requires a technical competence to carry out the activity.¹⁹ The permit obligations do not concern exempt facilities, excluded waste operations nor the *disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking* (EPR, paragraph 8(1) of Part 1).

As above mentioned, installations are included in the definition of regulated facilities. Furthermore, an installation means a Part A or Part B installation including *any location on the same site where directly associated activities are carried out*²⁰. Activities listed in chapter 2 of the IED are categorized as Part A activities. Additionally, an installation is defined as an industrial facility or manufacturer who has a stationary technical unit²¹. For various types of installations, activities are categorised under three (3) types²²: Part A1, Part A2 and Part B - activities.²³ In general, Part A activities are large industrial plants and for instance waste management activities listed in the IED are all Part A1 activities, while part B activities exist to control activities which can cause emissions to air.

As previously stated, the operations that pose a low risk to the environment are **exempted** from an environmental permit. Instead, they must be registered. An exempt waste operation refers to a waste operation that is not carried on at an installation. It also means a waste disposal activity other than incineration or landfill or a waste recovery activity carried on an installation. These operations are exempted on condition that they meet the requirements of exempt waste operation (EPR, paragraph 5(1) of Part 1). Additionally, when the exempt waste operation is carried out by another operator other than the applicant, the waste operation does not need to be covered by a permit of that installation and may be regarded as an exempt waste operation.²⁴ The exempted activities are listed in Schedule 3 of the Environmental Permitting Regulations 2010. The activities are divided into different groups depending whether the activity involves using, treating, storing or disposing waste. Schedule 3 also lists *general conditions* for all groups: an activity must meet with the description of the exempt operation as well as with the general and *specific conditions* listed in the

¹⁷ DEFRA: Core Guidance 2013, p. 8.

¹⁸ DEFRA Guidance on exempt waste operations 2010, p. 9.

¹⁹ Gov.uk: Legal operator and competence requirements – environmental permits.

²⁰ DEFRA Guidance on exempt waste operations 2010, p. 11.

²¹ Technical unit refers to types of plant or machinery that can carry out Schedule 1 activity or activities on its own (Regulatory Guidance Series no RGN 2, 2015, p. 76-77).

²² The activities are listed in Schedule 1 of the Environmental Permitting Regulations, Part 2, Chapter 5: waste management.

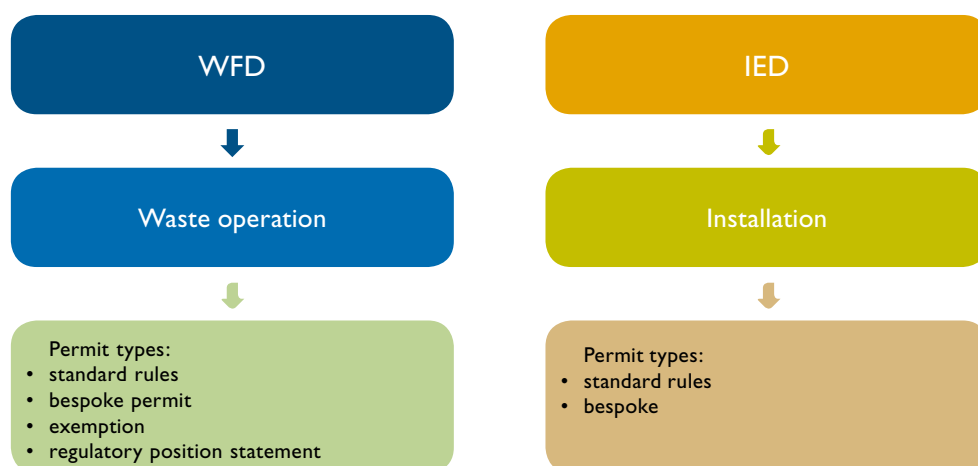
²³ Certain activities might fall into several sections of Parts A1, A2 and/or B. For activities that fit both A1 and A2, the most apt description is chosen. For instance, the disposal of animal waste with a 50 t/day capacity fits the narrow description of Part A2 and the general description of disposing non-hazardous waste as Part A1 activity. Since the Part A2 description is more specific, that is being applied. However, Part A activities always overrule Part B activities.

²⁴ DEFRA Guidance on exempt waste operations 2010, p. 11.

exemption. Group specific general conditions apply to all exempted waste operations within the same group but they vary between different groups²⁵. The exemptions go as far as listing the waste type and waste codes along with quantity limits allowed to be handled within a specified period of time. In addition, conditions are given on how to store waste and for how long. Some activities also have *specific purpose restrictions*, allowing the usage of waste for certain actions. Conclusively, the exemptions have a lighter touch form of regulation. An operation that does not comply with the general and specific conditions of an exemption, must apply for an environmental permit. The rules comply with the WFD Articles 24 and 25 relating to exemptions from permit requirements and conditions to exemptions. The registration can be done online but a paper application form is also available²⁶. The registration is free and valid for three (3) years. Exempted operations are subject to risk based periodical inspection conducted by the Environment Agency²⁷.

Regulatory position statements (RPS)²⁸ are a set of requirements that allow performing certain activities without requiring a permit or an exemption. An RPS can concern using, treating or storing waste. When the activity meets with requirements given in RPS, the Environment Agency will not impose a permit. Expiry dates apply to each RPS. If an activity is withdrawn from its RPS, operators must apply for either an exemption or a permit. There are three general conditions for RPS: firstly, the activity meets the description in the RPS. Secondly, the activity complies with the conditions set in the RPS, and lastly, the activity does not cause harm to human health or environmental pollution.²⁹

Figure 2 Types of permits in England



²⁵ For example, the general condition for exempted treatment of waste operations is that the operation's purpose is to recover waste (EPR, Schedule 3, Chapter 3, Section 1.3), and for the exempted disposal of waste operations, the general condition is that the operation is carried on at the place of production (EPR, Schedule 3, Chapter 4, Section 1.3).

²⁶ NetRegs: Guidance by environmental topic.

²⁷ DEFRA: Exempt waste operations 2010, p. 24 and 29.

²⁸ Gov.uk: Waste – environmental permits, 2016. Some of the waste activities that have been excluded from having a permit by RPS are, just to mention few, the use of treated asphalt waste in hard paving structures, the very small-scale treatment of solid waste from composting toilets and the use of auxiliary (back up) flares at exempt anaerobic digestion plants. Another example is the small scaled preparatory treatment of plastic waste, max. 1000 tonnes per week, with heat (Gov.uk: Regulatory position statements).

²⁹ Gov.uk: Environmental permits – regulatory position statements

Waste Permitting

Environmental Permits

The operations regulated in the IED and WFD are differentiated in the legislation as **installations** and **waste operations**. However, the permit application scheme is uniform for each type of permit, despite the facility and operation specific descriptions and conditions.

There are two types of environmental permits for waste: **standard rules** and **bespoke permit**. The English legislator has divided both IED and WFD operations into common and so called specialized operations. Common operations are regulated under standard permits with a lighter application process, while operations that require a detailed specific assessment or the necessary controls are too complex³⁰, need to apply for a bespoke permit. Only few IED-type facilities are regulated with standard rules permit, while the WFD-type facilities has a large range of operations that are regulated under standard rules. Both permits are in force until further notice and they are subject to occasional inspection³¹. Application forms for either a standard rules or bespoke permit are found online, they must include specific information required by the regulator, and it can be sent to the competent authority via post or email. Further information might be asked in order to complete the application.³²

Activities that are not considered as common and do not fit the conditions of a standard rules permit, must apply for a tailored **bespoke permit**³³. More precisely, Part A1 facilities and waste operations that do not have a standard rule or cannot comply with the rules set in them, must apply for a bespoke permit. The bespoke permits entail site-specific conditions written for each permit. The application for the bespoke permit is more extensive compared to the standard rules permit as it involves a thorough assessment of the environmental risks and impacts of the activity to human health and environment.³⁴ Operators must meet the legal operator and competency requirements, develop a management system, complete a risk assessment, and design the facility to control emissions. A pre-application discussion with the regulator is often recommended for operators applying for a bespoke permit.³⁵

Applying for a **standard rules permit** is cheaper, easier and faster than a bespoke permit as it is part of a simplified permitting system. Common activities are given a set of rules, which they must comply with in order to be qualified to apply. Yet, applying for a standard permit means that an operation cannot appeal against or change the rules given in the permit. When applying for a standard rules permit the activity must meet the relevant description and rules listed in under each type of operation. Occasionally, standard rules are revised and changed, and the operators must comply with the revised standard rules³⁶. The standard rules permit for waste operating activities have been divided into seven (7) standard rules for activities involving: keeping or transferring waste, biological treatment of waste, metal recovery or scrap metal, materials recovery and recycling, recovery of use of waste on land, treatment to produce aggregate or construction materials, and onshore oil and gas exploration and mining waste oper-

³⁰ Environment Agency: Working together 2010, p. 5.

³¹ Ekroos – Warsta 2014, p. 44.

³² DEFRA: Core Guidance 2013, p. 24.

³³ Link to the application form for a new bespoke waste operation permit: <https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-b4-new-bespoke-waste-operation>

³⁴ NetRegs: Guidance by environmental topic

³⁵ DEFRA: Core Guidance 2013, p.17.

³⁶ NetRegs: Guidance by environmental topic

ations.³⁷ Each standard rule has its own conditions regarding general management, permitted activities, maximum quantities and monitoring. The conditions go into detail how an operation should be managed and what operating techniques should be used. Also certain installations have standard rules³⁸. If a Part A1 installation does not have a standard rule, then the operator must apply for a bespoke permit.³⁹

In situations where there is **more than one facility** operating on the same site, a **single permit** can be given covering all facilities. Including the prerequisite of the facilities being located in the same site, a single permit is possible when the regulator and the operator are the same for each facility. Proximity, coherence of a site and management systems are some of the factors, which determine where the facilities operate on the same site. A single permit can be granted for *mobile plants* as well as *standard rules facilities*, which are not located on the same site. When there are several operators operating on the same site, each has to apply separately – the application is duly-made when all applications have been submitted. The condition of operating on the same site is exempted for an operator wanting to operate at different sites one or more regulated facilities to which standard rules apply, and for mobile plants. The regulator and the operator still have to be the same.⁴⁰

Registration

Waste carriers, dealers, and brokers have to **register** their operation if they transport waste, buy, sell or dispose waste, or arrange for someone else to buy, sell or dispose waste. The registration must be done in advance and it will appear in the **public register of waste carriers, brokers and dealers**. The registration can be refused if the competent authority finds that the applicant is an undesirable candidate to be authorized to carry on such activities, or if the applicant or another relevant person has committed an environmental offense (Waste Regulations Part 8, section 29). Carriers, dealers and brokers are subject to periodical inspection (Waste Regulations Part 8, section 34). Operations will be divided into lower and upper tier registrations. If an operation is categorized as an upper tier registration, the registration must be renewed every three (3) years.⁴¹ This procedure complies directly with the registration rules of the WFD Article 26.

2.2.3

Consultation

Bespoke permit applications and standard permits for installations are exposed to a public consultation⁴². Members of the community are allowed to comment on the application within **20 working days** starting from the date the **Environment Agency** (EA) has published a notice (EPR, s 7(1) Schedule 5 part 1). The notice of the application is presented online along with instructions for how members of the community can see and comment the application. Anyone wanting to comment an application must pay a visit to the Environmental Agency office listed in the notice. Members of the community are not defined in the law. However, public consultee has been interpreted, *as a person whom the regulator considers is affected by, is likely to be affected by,*

³⁷ Examples are metal recycling site at a specific location for the total quantity of less than 25 000 tonnes a year, and a material recycling facility which is not located near well springs, boreholes etc. (Gov.uk: standard rules – environmental permitting)

³⁸ Standard rules are given for example to installations composting in closed or open systems that treat more than 75 tonnes of waste per day (Standard rules SR2012 No4 and No8)

³⁹ Gov.uk: A1 installations – environmental permits 2016

⁴⁰ DEFRA: Core Guidance 2013, p. 14-15 and 25.

⁴¹ Gov.uk: Register as a waste carrier, broker or dealer (England), 2016.

⁴² Environment Agency 2010, p. 6.

or has an interest in, an application (EPR Schedule 5(1)) which could be considered as a synonym for any member of the public commenting the application.

A standard permit application does not require a consultation at the application stage, as the consultation has been **conducted when drafting the standard rules**. At the drafting or revising stage, the authority must consult the communities as well as the regulated facilities that might have interest in the rules about the standard rules (EPR Chapter 4 s 26(1)).

2.2.4

Competent Authority and Length of Procedure

In England, the competent authorities granting environmental permits are the **EA** and the **Local Authorities**. The EA employs 10600 people⁴³. Most of the IED facilities listed as Part A1 activities are under the EA's competence. Approximately 400 IED facilities listed as Part A2 activities are under the local council's competence.⁴⁴

The EA must refuse or grant a standard rules permit (not included standard rules part A installations) within **three (3) months** and within **four (4) months** a bespoke permit, yet the aim for all applications is **13 weeks**. The time limits for determination have been written in the Permitting Regulations. The so-called *relevant period* starts when a duly-made application has been submitted to the regulator. However, major or complex projects, delays due to other permit procedure, and long statutory consultation periods allow flexibility in the time limits. If the permit is not given within the aforementioned period of time, the application will be **refused**.⁴⁵ If an operation requires a planning permission and no such permission is in force, an environmental permit is not granted (EPR Schedule 9(3.1)).

All the exempted operations have to register with the regulators. In most cases EA is the competent authority, but also the Local Authorities can act as the exemption registration authority in some cases. The exemption registration agency must within five (5) working days of receiving the registration notification check that all relevant details are notified and enter the information onto the register.⁴⁶

⁴³ Environment Agency: About us.

⁴⁴ Ekroos – Warsta 2014, p. 42.

⁴⁵ DEFRA: Core Guidance 2013, p. 26-27.

⁴⁶ DEFRA: Exempt waste operations 2010, p. 24 and 29.

The Netherlands

KEY FINDINGS

- The Dutch legislation uses the term “establishment” which refers to an enterprise.
- Subject to permit are enterprises conducting a physical activity.
- Two types of environmental permits: APPA and OBM.
- Competent authority: municipal government, provincial government or national government.

2.3.1

Structure of Legislation and Scope of permit

In the Netherlands the permit obligation of the WFD has been combined with the environmental permit. In addition, the environmental permit has been integrated into the All-in-one permit system which combines various permits, such as the IED-permit, into a single one-shop-stop permit. The Environmental Licencing (General Provisions) Act (Wet algemene bepalingen omgevingsrecht), abbreviated as Wabo, coordinates the environmental scheme in Netherlands by providing general rules to environmental permitting and describes the roles of key authorities⁴⁷. However, most of the legislation applied to the permits derives from other laws. The Decree on Environmental Law (Besluit omgevingsrecht) provides a detailed list of activities that require a permit or a notification, and sets goals for environmental aspects, such as soil, water and waste. The Activities Decree (Activiteitenbesluit) is applicable to all companies that have a relevant impact on the environment. Together with the Activities Regulations (Activiteitenregeling) they regulate around 100 different activities. The Activities Regulations provides the rules of compliance by regulating the techniques to be used and emission measurements⁴⁸.

The Dutch interpretation of the terms “establishment” and “undertaking” is fairly complex. The terms have been translated into the national translation of the WFD as “onderneming” and “inrichting” in the aforementioned order. The Dutch legislation uses solely the term “inrichting” when referring to activities needing an authorization and thus the Activities Decree and Decree on Environmental Law only regulate “undertakings”. The word “company” is also used in the English Internet pages of the Ministry. However, the term “inrichting” has been translated into the English-version of the Environmental Management Act (Wet milieubeheer, abbreviated as EMA) as “establishment”. The definition of an “establishment” is interpreted to mean any *enterprise undertaken by man commercially, or of a size commensurate with a commercial enterprise, which is conducted within certain bounds* (EMA Section 1.1§). However, it is noteworthy to acknowledge that the abovementioned definition of an establishment has been defined in the Dutch legislation before the enforcement of the WFD and has not been changed after the implementation, explaining the inconsistency in the use of terminology. Overall, the terminology seems to be disputable as there is a lot of jurisprudence about whether as an activity is regarded as an undertaking or not. Consequently, the terminology does not provide the adequate tools to understand the national interpretation of the terms establishment and undertaking.

The Dutch permitting scheme regarding waste is based on a fourfold authorisation system with two environmental permits, a notification and a registration procedure.

⁴⁷ Wong 2014, p. 2.

⁴⁸ Rijkswaterstaat Environment: Activities Decree

Whether a permit or a notification is required depends on the environmental impact the activity poses. Additionally, EU Directives can obligate certain activities to hold a permit. In the Netherlands, companies conducting a physical activity must have a permit (Wabo 2.1.1 §). However, a lot of exemptions from permit requirements exist as shall be seen below. Moreover, the municipalities and provinces have the authority to allow certain operations, which are subject to authorisation by the legislation to operate without a permit within their area (Wabo 2.2.2). Thus, the subjectivity to hold a permit may vary according to location. Furthermore, companies are often obligated to make a notification when starting up or making changes to its activities⁴⁹.

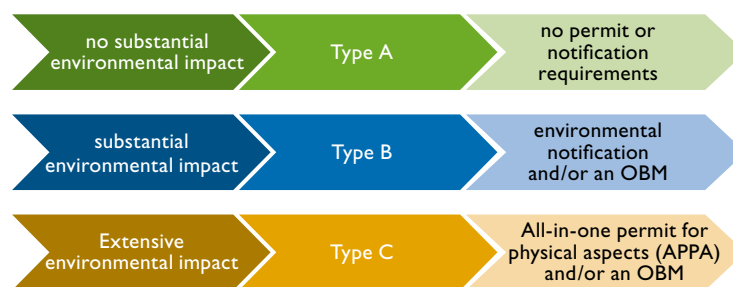
The list of companies in the Activities Decree has been divided into three degrees, running from A to C. The Activities Decree has different rules for different types of activities.⁵⁰ **Type A** companies *perform environmental activities with no substantial impact*⁵¹. A company with waste activities can only be categorised as type A if it concerns waste produced within the company (Activities Decree 1.2.2§ g). These companies are covered by general rules. An example would be an office where only storage of own waste takes place and they are thus usually comparable to household waste. Logically, **type B** companies have *substantial environmental impact*; they are also covered by general rules. A company with waste activities can be categorised as type B if it concerns waste, which is not produced within the company, for instance a paper recycling company.⁵² General rules for type A and B companies regarding waste usually include the prohibition on mixing waste, specific rules for utilizing waste in production processes and a description of a procedure of acceptance and control⁵³. **Type C** companies have an *extensive impact* on the environment and are usually too complicated to be covered by general rules. For instance, landfills and various other IED regulated companies are type C companies. Additionally, all companies that are not type A or type C, are type B companies.⁵⁴ For a company with waste activities, the categorization will depend on the type of waste management operation conducted by the company⁵⁵.

2.3.2

Waste Permitting

As mentioned above, companies are divided into three categories, which results into three different possibilities to comply with the permitting regulations.

Figure 3 Environmental permitting in the Netherlands



⁴⁹ Rijkswaterstaat Environment: Activities Decree.

⁵⁰ Rijkswaterstaat Environment: The System of Environmental Regulations in the Netherlands

⁵¹ Netherlands has listed as type A operation almost the same activities Finland has granted an exemption to applying an environmental permit in the YSL 32§. These activities include treatment of vegetable waste from agriculture and forestry.

⁵² Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016

⁵³ Kenniscentrum InfoMil: Algemene voorschriften.

⁵⁴ Rijkswaterstaat Environment: Activities Decree

⁵⁵ Email response from the Dutch Rijkswaterstaat Water. Received 9.8.2016

Type A companies are not required to apply for a permit nor are they obligated to notify the competent authorities. Yet, they are still obligated to comply with the Activities Decree. While type B companies have to **notify** the authorities about the conducted activities, they may also need to apply for an **OBM**, an all-in-one permit for Physical Aspects Limited Environmental Impact Assessment (Omgevingsvergunning Beperkte Milieutoets). Whereas type C companies are always subject to an **APPA**, an All-in-one Permit for Physical Aspects for the environmental aspect (Omgevingsvergunning milieu). The waste management facilities listed in the IED are type C operations.

It is noteworthy to acknowledge that in the Netherlands only a specific group of companies that have a significant environmental impact are obligated to apply for an APPA permit. The rest of the companies do not require an environmental permit, but are instead subject to general rules and environmental notification requirements.⁵⁶

Environmental permit

As expressed earlier, the Netherlands has created a permitting system with two different environmental permits. One of the permits is the **APPA** permit, which is part of the integrated permit procedure with exemption admissions⁵⁷. It allows companies to use one transparent procedure to apply for all necessary permits for activities that impact the physical environment with a single application. It is applicable to companies, which have relevant impact to the environmental or operate a complex activity that cannot be covered by general rules. Annex I of the Decree on Environmental Law lists all activities, which are subject to an APPA.⁵⁸ The APPA can be granted for a fixed or infinite period. However, most companies do not need an APPA for the environmental aspect as according to an estimate made for 2016 only 5 % (22 000) of companies that have relevant impact on the environment will have an APPA⁵⁹. Instead, the Activities Decree and other environmental regulations can apply.

The second permit type includes a lighter permit procedure. The **OBM** is an uncomplicated permit without rules⁶⁰. Companies regulated under an OBM are subject to an assessment conducted by the competent authority, which only focuses on certain specific environmental aspects such as noise, odour, air quality or an effective waste management, but not all environmental aspects. The assessment will result in an OBM-permit if there is no base to withhold the permit. OBM permits are valid indefinitely. While type B companies are obligated to only notify the competent authority about their activities, a limited number of activities are required to apply for an OBM.⁶¹ Activities requiring an OBM are for instance storage of certain type of medical and hygienic waste, the dismantling of end-of-life vehicles, storage of asbestos at the place of an asbestos removal company.⁶²

With the all-in-one permit scheme, an applicant wanting to operate multiple waste treatment activities at the same location can apply for a permit to all activities with one application, if the activities are considered to be part of the same company.⁶³ Activities conducted on different locations by the same operator also are required to be considered as part of the same company in order to be subject to the same permit. In order for activities to be considered as part of the same company, there should be a technical, organisational or functional relationship between each activity and they should be situated in each other's immediate surrounding (Wabo 1:1.4§). Thus, the permit is location specific.

⁵⁶ Sanders 2015.

⁵⁷ Ekroos – Warsta 2014, p. 26.

⁵⁸ Rijkswaterstaat Environment: The System of Environmental Regulations in the Netherlands.

⁵⁹ Rijkswaterstaat Environment: The System of Environmental Regulations in the Netherlands.

⁶⁰ Rijkswaterstaat Environment: The System of Environmental Regulations in the Netherlands.

⁶¹ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016.

⁶² Kenniscentrum InfoMil: Toelichting OBM-plicht artikel 2.2a Besluit omgevingsrecht

⁶³ Rijkswaterstaat Environment: The System of Environmental Regulations in the Netherlands.

If a company wants to collect waste oil, ship waste and minor hazardous waste⁶⁴, registration is not enough and a waste collection license is needed (Waste Collection Decree, *Besluit inzamelen afvalstoffen*, 9§). The Ministry of Infrastructure and the Environment in an extensive permit procedure grants the license for indefinite period. The applicant must meet with the application requirements by providing a certificate of good conduct, which demonstrates the company's reliability⁶⁵, a certificate of creditworthiness and a certificate of competence. Additionally, the collection should have an effective management of waste, which means for instance an adequate acceptance and treatment policy plus an adequate administrative organization and internal control.⁶⁶

Notification and registration

Most often type B companies can begin their activities by submitting **an environmental notification**. Companies who are required to submit a notification are for instance the ones who receive waste from other companies. A notification is not the same thing as a permit and thus, a decision or a permit will not follow a notification and consequently, no objections can be made. A notification must be made four (4) weeks before the setup of the company and it is mandatory in case of a change in a type B company, if this change causes deviation from previously reported data.⁶⁷ For companies receiving waste, the notification must include information about the type of waste, waste operation, maximum storage capacity and waste process capacity⁶⁸.

A type C company is only required to submit a notification for activities to which Chapter 3 of the Activities Decree applies. A notification is not needed in case of a change of the company and when this change causes no deviation from previously reported data.⁶⁹

Companies transporting and/or collecting industrial or hazardous waste on a professional basis, as well as dealers and brokers of waste, must be registered to the list of transporters, collectors, dealers and brokers, called the *VIHB-list*. The National and International Road Transport Organization (NIWO), who is the competent authority, handles the registration applications. The registration is done online and the list can be viewed on the government's page. Companies wanting to register must have a good reputation, and waste dealers and brokers must additionally be professionally competent. The registration is valid for five (5) years and it can be renewed six months before expiration.⁷⁰

2.3.3

Public Consultation

Before issuing a permit for environmental activities, the permit procedure includes a public consultation⁷¹. The national legislation refers to this procedure as informing the public. The application process involves a hearing before and after the permit has been given. The form of consultation depends on the type of permit procedure the application undergoes.

⁶⁴ Minor hazardous waste is for instance products such as laboratory chemicals, paint, varnish and detergents not exceeding 200 kg. (Waste Collection Decree 1§ 1.1 c)

⁶⁵ The certificate is issued by Justis on behalf of the Dutch State Secretary for Security and Justice, and the representative of the legal entity must submit the application. (Ministry of Security and Justice: Apply for a certificate of conduct)

⁶⁶ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016

⁶⁷ Rijkswaterstaat Environment: Activities Decree.

⁶⁸ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016

⁶⁹ Type C companies always need an APPA. They can use notification only when wanting to change its activity by, for instance, performing a new activity and that new activity is regulated by the Activities Decree. When the change is not in compliance with the APPA, it must apply for a permit change. (Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016)

⁷⁰ NIWO: Dutch regulation on waste.

⁷¹ Sanders 2015.

In the **standard permit procedure**, permit applications are notified by the competent authority in one or more daily or local newspapers. A notification is given in the same manner after a decision has been reached. The stakeholders can challenge the decision by objecting it within **six (6) weeks** after the decision has been notified. The objection is sent to the competent authority. The stakeholder can also lodge the application for a judicial review to the district court.⁷²

In an **extensive permit procedure**, a permit draft will be available for perusal for **six (6) weeks** and it has to be notified in one or more daily or local newspapers. Everyone, including stakeholders and non-stakeholders, has the opportunity to respond to the permit draft. Responses can be given in oral or written to the competent authority. Stakeholders can lodge the application for judicial review.⁷³

2.3.4

Competent Authority and Length of Procedure

The competent authority is usually the municipal administration (gemeenten, all together 309 offices) but the competence has been *occasionally* given to the provincial government official (provincies, all together 12 offices) on applications involving facilities with a significant environmental impact, which include facilities, which are subject to the IED.⁷⁴ Also the national government (Ministerie van Infrastructuur en Milieu) can act as the competent authority⁷⁵. The National Authority is responsible for maintaining a registry for transporters, dealers, brokers and collectors. Notifications are submitted to the competent authority.⁷⁶

The Netherlands has two extensive electronic application systems through which all applications and notifications are submitted. The applicant can first check online whether it needs a permit. The Activities Decree Internet Module (AIM)⁷⁷ determines the degree of an operation and regulates whether an APPA or an OBM, and if an environmental impact assessment is required. The portal is also used for environmental notifications.⁷⁸ The online portal OLO is used for electronically submitting applications for APPA-permits and OBM-permits. Companies have the option to apply for permits for all activities at once or they may choose to apply them one by one.

There are two types of permit procedures relating to the environmental permits: a standard and an extended procedure. Common operations usually undergo the standard procedure while the extended procedure is for operations with complex environmental aspects⁷⁹. In the **standard permit procedure**, the decision-making time is **eight (8) weeks**. The decision-time can be *extended* once by **six weeks at most**. A missed deadline will result in issue of a permit, except when the permit requirement arises from an EU directive like WFD or IED. Thus, for activities falling under the scope of IED and WFD, a missed deadline will not result in the refusal of the permit. The **extended permit procedure**, always for type C companies, has a **six (6) month** decision-making period, which can be extended once for **six (6) weeks** if the application is highly complex or controversial. A missed deadline *does not* automatically result in issuing a permit.⁸⁰

⁷² Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016.

⁷³ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016.

⁷⁴ Sanders 2015.

⁷⁵ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016

⁷⁶ Ekroos – Warsta 2014, p. 29.

⁷⁷ Link to the Activities Decree Internet Module (only in Dutch): <https://www.aimonline.nl/default.aspx?session=At9ev9m3o8b>

⁷⁸ Ekroos – Warsta 2014, p. 29.

⁷⁹ Ministry of Infrastructure and the Environment: All-in-one Permit for Physical Aspects.

⁸⁰ Email response from the Dutch Rijkswaterstaat Water. Received 28.6.2016.

Denmark

KEY FINDINGS

- Waste permitting integrated in the environmental permit
- Subject to permit are establishments (natural or legal person)
- Smaller waste treatment activities are subject to registration and standard rules
- A large part of the recycling facilities have been exempted from permit requirements and are subject to registration

2.4.1

Structure of legislation and the scope of permit

The main Danish waste legislation is comprised of the Environmental Protection Act (Bekendtgørelse af lov om miljøbeskyttelse, LNK no. 1317 af 19/11/2015), the Order of Environmental Permitting (Bekendtgørelse om godkendelse af listevirksomhed, BEK no. 514 af 27/05/2016), and the Statutory Order on Waste (Bekendtgørelse om affald, BEK no. 1309 af 18/12/2012). Special legislation exists also for small waste treatment plants, packaging materials, batteries and construction waste, just to mention few. However, detailed waste regulation can be found in municipal plans and regulations.⁸¹ Municipalities play an important role in how waste is treated within the municipalities as they have an extensive self-determination power. They oversee the collection of not only household waste but also all commercial waste for incineration and landfilling. Recently however, after the market liberalisation the recycling of commercial waste is collected and treated on general market conditions.⁸²

The Statutory Order on Waste defines the scope of the legislation and defines relative terminology. The Danish regulator defined the term “establishment” in the legislation to mean **any natural or legal person** who is registered in the Central Business Register (CVR) (Statutory Order on Waste 2:31§). Also, according to the Environmental Protection Act 33§ establishments, installations and devices that are listed in activity list cannot be established or commenced unless an environmental permit is granted. These activities are commonly named as *industrial activities*. The Environmental Protection Act regulates waste management in Denmark⁸³, while municipalities develop waste management plans and control the disposing of commercial and industrial waste by providing information on how produced waste should be disposed within its geographical area⁸⁴.

The application for an environmental permit must be done before the formation of the activity or when significant changes or expansion occurs within the operation. The activities requiring a permit are listed in the Annexes of the Order of Environmental Permitting, later abbreviated as BGL. Also activities with similar technical or polluting characteristics that are not listed in the activity list are included in the scope of permit (BGL 3.3§). **Annex I Industrial Activities**⁸⁵ of the BGL regulates mostly IED waste management facilities, such as installations that utilise hazardous waste, while

⁸¹ Karjalainen 2008, p. 37.

⁸² DAKOFA: Waste regulation in Denmark

⁸³ Denmark’ waste tax has allowed the minimization of waste production and insertion of waste into landfills. The tax aims at promoting the reuse and recycling of waste while reducing the amount of produced waste (Pöyry Management Consulting Oy 2012 p.25).

⁸⁴ Costa – Massard – Agarwal 2009, p. 817.

⁸⁵ Link to Annex 1 Industrial activities: <http://eng.mst.dk/topics/industry/environmental-permits-for-industry/annex-1-industrial-activities/annex-1-list-of-activities-requiring-a-permit/>

Annex II light Industrial Activities⁸⁶ have *less pollution potential and complexity* than activities listed in Annex I, and they are usually *smaller and less complicated facilities*. Consequently, Annex II lists activities that are exposed to a simplified **permit system** and reduced notification requirements. The application process for IED facilities and WFD facilities is thus differentiated, as the procedure is slightly different. The application for an environmental permit can be completed electronically online, which will direct the application to the competent authority.⁸⁷

A company operating several activities in both Annex I and II, can submit a single application for the whole company (BGL 7.5§) but operations in different locations need a separate permit⁸⁸.

Figure 4 Relationship between regulating levels



2.4.2

Waste Permitting

Environmental permit

Denmark has developed an integrated environmental permitting regime, where the waste permit is integrated in the already existing environmental permit. The IED and WFD waste facilities are subject to differentiated process: the IED facilities listed in Annex I of the BGL in the Danish legislation have to apply for an environmental permit in accordance with the regulations in the IED, which includes best available technique (BAT) requirements and baseline reporting. Thus the requirements for Annex I part K facilities, “the utilization and disposal of waste”, are higher than for facilities that are not listed in Annex I but are instead Annex II facilities or smaller, and are thus subject to WFD regulations. The IED environmental permit is revised and updated when new BAT conclusion come to force. The requirements for Annex II waste utilization and disposal facilities are not as extensive as for the facilities in Annex I. The permits of Annex II listed facilities can be revised after 8 years, if needed.⁸⁹

⁸⁶ Link to Annex 2 Light industrial Activities: <http://eng.mst.dk/topics/industry/environmental-permits-for-industry/annex-2-light-industrial-activities/annex-2-list-of-activities-requiring-a-permit/>

⁸⁷ Ministry of Environment and Food of Denmark: Environmental permits for industrial activities listed. The portal for submitting applications (only in Danish): <https://www.bygogmiljoe.dk/>

⁸⁸ Email response from the Danish Ministry of Environment and Food. Received 1.7.2016.

⁸⁹ Email response from the Ministry of Environment and Food. Received 15.6.2016.

Some waste operations, such as installations for the storage, reloading, repackaging or sorting of hazardous waste, which are listed as Annex II companies, have **standard conditions**⁹⁰. For example, the temporary storage of hazardous waste prior to recovery or disposal of waste with the capacity of less than or equal to 50 tonnes have standard conditions is subject to standard rules (Order on Standard Conditions of approval listed companies Annex 1 Section 17, no. 51927/5/2016). The standard conditions describe the key environmental issues, give disclosure requirements for applications and are setting out specific conditions to the activity. The conditions are set to ensure that these activities are regulated in the same matter nationwide, to clarify the conditions and to minimize administration⁹¹. The company is subject to standard conditions if one or more of its activities are covered by Annex II companies that have standard conditions and if the activity corresponds to the scope of the described standard conditions. Some standard conditions allow the authorizing body to give case-specific conditions relating for instance to the maximum storage quantity of waste at a facility. (BGL, Annex 5)

Registration

Collectors, waste carriers, brokers, and dealers must *register* to Denmark's waste data system (Affaldsdatasystem). An approved collector also has the opportunity to act as a carrier. Carriers, brokers and dealers must register during establishment. The DEPA will decide if the registration meets with the requirements within 21 days from receiving the registration application (Executive Order on Waste Registry (Bekendtgørelse om Affaldsregistret og om godkendelse som indsamlingsvirksomhed) 11§, no. 1305, 17/12/2012). The registration is valid for five (5) years and must be re-applied before the existing registration expires. Changes must be announced within 14 days to the DEPA (Executive Order on Waste Registry 13§). The registering companies must pay an approval fee, a registration fee upon registration, and an annual fee.⁹² Waste carriers, dealers and brokers of hazardous waste must keep record of the amount and type of waste they handle. The record must be stored for three (3) years (Statutory Order on waste 71§). Waste producers must only use registered companies when looking for potential partners to assist in waste management.

In addition to the above mentioned, **waste recycling facilities, installations which prepare waste for recycling, and companies receiving waste from a carrier** must register to the data system (Executive Order on Waste Registry 4§). In the Danish legislation waste recycling means *any recovery operation* by which a material is *reprocessed into a product, material or substance*, either for its original purpose or for some other purpose. The term includes the reprocessing of organic materials but does not include energy recovery or the reprocessing of materials used as fuels or for back-filling operations. (Statutory order on Waste 2:3.28§) This complies directly with the WFD regulations. The abovementioned recycling activities and companies receiving waste from carriers are exempted from obtaining a permit and are only obligated to register, thus complying with the WFD Article 24. However, companies that recycle their *own products back* for production from the market or only receive specific waste for recycling from a small circle are not obligated to register (Executive Order on Waste Registry 5:2§).

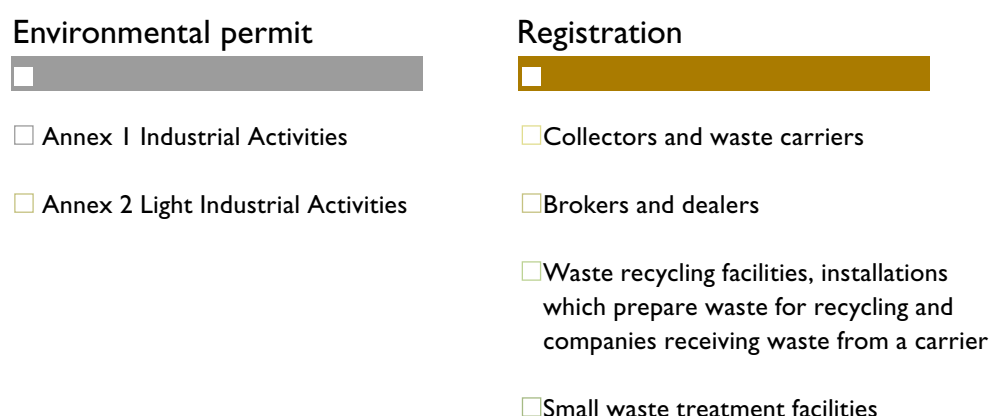
⁹⁰ Examples of operations that have standard conditions are installations for storage, reloading, repacking or sorting of certain hazardous and non-hazardous waste prior to utilization or disposal (Order of Environmental Permitting Annex V part 6 and 12).

⁹¹ Email response from the Danish Ministry of Environment and Food. Received 15.6.2016.

⁹² Ministry of Environment and Food of Denmark: Om affaldsregisteret.

Waste facilities that have a **smaller capacity** than Annex II listed facilities are regulated in the Order on Environmental Issues for Smaller Waste Treatment Facilities (Bekendtgørelse om miljøforhold for mindre affaldsbehandlingsanlæg, BEK no 436 af 1705/2016). These facilities do not have to apply for a permit, but are subject to registration and minimum standards⁹³. The order sets out rules general rules for facilities not covered by the Order of Environmental Permitting by regulating how waste should be stored and handled, and by setting periodical self-monitoring and record maintenance obligations to the companies. The records must be available for five (5) years. (Order on environmental issues for smaller waste treatment facilities 18-20§) The municipalities supervise these facilities in order to make sure the requirements of the order are met.

Figure 5 Operations subjected to permit and registration procedure



2.4.3

Public Consultation

For waste operations listed in the IED and nationally i-marked waste operations, the competent authority is not allowed to grant a permit unless the public has been consulted on the application and the draft decision. When an operation is i-marked it means it is subject to a public consultation⁹⁴. The competent authority shall make a public announcement about the application and the specific commentary time, which is usually **three** (3) to **six** (6) weeks from the announcement. Decision drafts are available to be requested three (3) to six (6) weeks from the announcement but the public has only two weeks to comment on it. (Order of Environmental Permitting 11§) The commenting is mostly done online. From 2017 all environment permits will be published in a new IT-system⁹⁵. For other facilities, like Annex II facilities, there is no public consultation. All resolved permits are published digitally and available for everyone to see⁹⁶.

⁹³ Email response from the Danish Ministry of Environment and Food. Received 1.7.2016.

⁹⁴ Ministry of Environment and Food of Denmark: Annex 1 Industrial activities

⁹⁵ Link to the new IT-system: https://dma.mst.dk/web/guest/soeg?p_auth=h1JuvUKx&p_p_id=Soeg_WAR_DMAportlet&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1

⁹⁶ Email response from the Danish Ministry of Environment and Food. Received 9.8.2016.

Competent Authority and Length of Procedure

The competence to grant an environmental permit is divided between the Danish Environmental Protection Agency (later DEPA) under the Environmental Ministry and the municipalities.⁹⁷ It has been estimated that about 300-400 people are working with environmental permits; this includes people working in municipalities as well as DEPA's employees.⁹⁸ Usually, the DEPA is the competent authority of some of the most polluting and complex IED installations, certain power plants and significant waste treatment facilities (all together 250 sites), whereas municipalities regulate the rest of the installations located within their area⁹⁹. Thus, the municipalities are most often the competent authority. When the competent authority is the DEPA, the applications must also be sent to the municipality where the installation is located.¹⁰⁰

A permit regarding IED waste management facilities listed in Annex I will take several months to be granted, however, starting from 2017 the granting process is not allowed to exceed **200 days**. For facilities falling under the scope of the WFD and which are listed in Annex II, the granting process is **130 days**.¹⁰¹ However, the granting periods are only an *administrative intent* and indicate a targeted average time for granting permits within a year. Thus, if the granting period is run over and no decision has been made by then, it will not result in a permit or refusal of the application.

⁹⁷ Wong 2014, p. 1-2.

⁹⁸ Email response from the Danish Ministry of Environment and Food. Received 1.7.2016.

⁹⁹ Ekroos – Warsta 2014, p. 47.

¹⁰⁰ Ministry of Environment and Food of Denmark: Annex 1 Industrial activities.

¹⁰¹ Email response from the Danish Ministry of Environment and Food. Received 15.6.2016.

3 Conclusions

3.1

Evaluation of Results

Even though all countries studied in this report are part of the EU and thus subject to the implementation of the same WFD and IED minimum standards, there are significant differences in the waste permitting between the countries. Below are some of the key findings of the study:

The terms “establishment” and “undertaking” seem to have as many interpretation as there are Member States and areas within countries. Yet, what stands out as a common denominator is the description of *operations* obligated to apply for a permit. Most countries, instead of defining the terms “establishments” and “undertaking”, have rather listed all the operations subject to permit. The questionnaire conducted by the Finnish Environment Institute showed that Slovenia, Bulgaria and Portugal, on the other hand, have tied the permit obligation to the official Trade Register: if registered, permit must be applied. In a general level, countries did not imply of having any specific problems when applying the terminology in administrative and legal practise. Few countries explicitly said that the terminology has not triggered interpretation disputes. This research relieved that only in Finland, the Netherlands and Sweden the terminology has caused differences in opinion.

All countries demonstrated to have similar exempted operations from permit requirements and subjected to a registration procedure. Nevertheless, countries vary in the amount-exempted operation. In all countries, the exemptions are based on their low environmental risk or impact and WFD exclusions. Overall, Finland has used possibility to exempted waste operations from permit obligations in moderation. Especially in England, the list of exempted waste facilities is extensive. Similarly, Denmark has exempted nearly all waste recycling activities.

When it comes to the general permit scheme, countries have adopted different solutions. Two of the studied counties have implemented at least two types of permits: waste treatment activities are authorised under the regulations of WFD and IED. Additionally, there is some sort of registration procedure. In England and the Netherlands, operations that pose a high risk to the environment, usually activities regulated by the IED, are subject to a more complex permit procedure than activities with low environmental impact, mostly regulated by WFD. Nevertheless, some WFD regulated activities, for instance disposal activities, are regulated with strict permit regulations. Finland and Denmark have used the possibility to combine the permit obligation of the WFD to an already existing permit. The scheme in which there are different types of permits, allows a faster granting period for operation falling under the lighter procedure. In Finland operations that only fall under the scope of WFD are also subjected to a lighter procedure, as IED-listed industrial operations have to follow the extent permitting regulations of the Directive.

Yet, the application procedure for the standard environmental permit is already heavier and more time-consuming than in other studied countries. Standardised permits are used in England and Denmark.

Even though the WFD does not set *time limits for permit granting*, many countries have restricted, in order to assure fast procedure, the granting periods for permits. Finland, England, the Netherlands and Denmark seem to have set administrative goals for decision-making; some have even transferred them into their national legislation. The granting period in Denmark varies between 130-200 days, in the Netherlands from 98 days up to six months, and in England starting from 90 days up to 390 days. In Finland the average granting period is approximately 500 days. Most of the time, the granting period begins when a duly-made application has been submitted. In England, an exceeded granting period will result into the refusal of the permit application. In Denmark the granting times are only administrative intent and thus do not result into the refusal or submission of a permit. Similarly, in the Netherlands operation falling under the scope of the WFD and IED are excluded from implications such as automatic granting of a permit resulting from exceeding the granting time. It is important to acknowledge the resource difference between the countries when comparing the granting times. This study does not provide comparable data on the magnitude of for instance personnel handling permit applications. As countries vary in size considerably, it is hard to put real value in the analysis of the different granting periods. The large differences in the procedural times might be a result of fairly different public hearing demands, which for instance in the case of Finland often prolongs the whole permit procedure.

The Netherlands seemed to be most progressed in terms of using online portals for application submission. The application system seems advanced as it is automatically filled based on the answers the applicant has provided. Also the research indicated that an online advisory service for applicants is frequently used. In Finland applications must also be sent via email to the competent authority, yet the use of technology clearly lacks behind compared to other countries.

Table 2 Summary of key findings

Finland	England	The Netherlands	Denmark
Subject to permit: professional and industrial treatment of waste.	Subject to permit: all waste operations	Subject to permit: enterprises conducting a physical activity.	Subject to permit: industrial activities.
Twofold permitting system: environmental permit and registration.	Threefold permitting system: two permits and registration .	Fourfold permitting system: three permits and registration.	Twofold permitting system: environmental permit and registration.
A single permit for multiple activities (same or different operator) if the location and competent authority are the same.	A single permit for multiple facilities in the same site if the regulator and the operator are the same.	A single permit for several activities (in different locations) if considered to be part of the same company.	A single permit for several activities if the location is the same.
Target-oriented granting period of 10 months. However, average 17,3 months.	Granting period 3 months, which will result, if exceeded, in refusal of the application.	Granting period between 8 weeks and 6 months with no implications.	Administrative yearly goal for granting time 150–170 days with no implications if exceeded.

Finland	England	The Netherlands	Denmark
Competent authorities: Regional State Administrative Agency and Municipal Authority of Environmental Protection. The supervising authority is the Centre of Economic Development, Transport and the Environment.	Competent authorities: Environment Agent and Local Authorities.	Competent authorities: Municipal government, provincial government and national government.	Competent authorities: Municipalities and Environmental Ministry.
Internet Module: under development.	Internet Module: for registration.	Internet Module: for applications and registration.	Internet Module: for applications and registration.

3.2

Implications for the Finnish Waste Permit Scheme

The studied Member States have provided adequate ways of lightening the administrative burden with distinctive methods in their legislation.

Finland is seemingly behind from other EU Member States in the use of technology. The Netherlands and Denmark have been demonstrated in this report to be fairly advanced in using technology to their benefit. In the Netherlands and Denmark all applications are done online and the program assists applicants in filling out their applications. In England, operations subject to registration are able to register online. By developing an electronic application system, which guides the applicants during the application process, will potentially lead to a more frequent return in duly-made applications. Guidance can be given online while the applicant fills out the application form. Finland has already taken steps in producing its own online application portal, which will without doubt decrease the administrative burden.

While technology is an essential part in developing more fluent waste permits schemes, the study shows that there are also different legislative solutions available. Some other ways to lighten the administrative burden of the permit procedure would be to:

1. Create a threefold permitting system by adopting two types of environmental permits

England and the Netherlands have established two different types of permits for waste operations. One concerns IED facilities and larger waste treatment operations, which are covered by the IED-rules, and the other permit regulates the activities of smaller waste treatment operations, which fall under the scope of WFD. Similar practical solutions have been adopted by other Member States and should also be considered in Finland. While Finland does have a more complex permit procedure for IED facilities and a standard procedure for operations falling under the scope of WFD, there is a need for a more simplified permit to be applied to the most simplest waste operations.

The WFD-permit provides the opportunity to standardise permits. The advantage of standardised permits is that the applicant already when applying knows the conditions of operating under a standard permit and thus the permit is granted

in an easier and faster manner. The standardised permit should entail rules on the technology used, emission limits and other preconditions in order to be subjected to a lighter permit. In England the permit for smaller, most common waste operation facilities, has been standardised which further streamlines the application process. In the Netherlands, the lighter permit only regulates certain environmental aspects such as noise and odour. In Finland, some initial proposals have been made to establish a standard rules permit for some activities, such as livestock farms. So far, however, these proposals do not cover waste operations.

Public hearing brings its own challenge when considering this option. The standardisation of permits for certain waste operation must ensure that the public hearing is done according to the Administrative Procedure Act. Problems could arise when considering this options if the public hearing of neighbour is left out. In England, for example, the public hearing of standardised permits is conducted when the standard rules permit regulations are drawn. The hearing involves companies within the area of business, experts and other officials. Also, in Denmark light industrial activities listed Annex II “utilisation and disposal of waste” do not have a public hearing. Alternatively, Finland could adopt the model of the Netherlands where the public is able to comment the permit at its drafting stage.

2. Modify the spatial scope of the permit

In Finland activities conducted by the same operator in different locations must apply an environmental permit for each location separately. For example with regard to some, yet unspecified, waste recovery activities, the existing environmental permits could be altered to cover more than one facility with one permit by expanding the scope of permit. An “establishment” or an “undertaking” could be understood as a wider unit which includes all operations done by one operator. Applicants could apply with one application to all waste treatment facilities within the competence area of one competent authority. This option could be applicable to operations subject to a lighter permit procedure. The permit obligation would rather be tied to the applicant instead of a location. In England an applicant with several standard rules facilities or mobile plants can be granted a single permit for all activities. In Finland, similar practice could be allowed to mobile plants and smaller activity units, which are operated by the same operator.

However, as demonstrated in this report, the interpretation of the subjectivity to hold a permit varies between countries and areas due to the fact that the EU has not defined the terms “establishment” and “undertaking”. Thus, lightening the administrative burden through new interpretations of the terms “establishment” and “undertaking” will hardly provide practical solutions to the existing problems.

3. Expand the scope of exempted operations

Finland has exempted only two types of activities from applying an environmental permit through the MARA-decree and the Decree on Asphalt stations. The possibility of exempt waste recovery activities in a more extensive manner would decrease the amount of the applications coming in. General rules for exempted operation can be put to force through government decrees. England has successfully used the opportunity provided by WFD Article 24. Some of the operations exempted from the permit obligations are, for instance, preparatory treatments like bailing, sorting, shredding of cans, glass and plastic just to name few, and for instance the disposing of small amounts of untreated wood and plant tissue that have been produced at its place of production. Also Denmark has used the opportunity to exempt activities by allowing nearly all recycling activities and pre-recycling activities to register instead of requiring them to apply for a permit.

BIBLIOGRAPHY

Literature

- Buclet, Nicolas – Godard, Olivier*: Municipal Waste Management in Europe – a comparative study in building regimes. Kluwer Academic Publishers, 2000.
- Costa, Inês – Massard, Guillaume – Agarwal, Abhishek*: Waste management policies for industrial symbiosis development – case studies in European countries. Published in the Journal of Cleaner Production. Elsevier Ltd, 2009.
- Deloitte*: Construction and Demolition Waste Management in Denmark.
- Ekroos Ari – Warsta, Matias*: Ympäristölupajärjestelmän keventämishankkeista eräissä maissa. Enlawin Consultation Oy 2014.
- Finnish Environment Institute*: Research material for the waste report. Helsinki, 2015.
- Karjalainen Miisa*: III Osa: Tanska. In Hollo, Erkki (ed.): Katsaus eräiden EU-maiden jätelainsäädäntöön. Helsinki 2008
- Kuusiniemi, Kari (ed.) & al.*: Ympäristönsuojelulainsäädäntö. Edita Publishing Oy 2015.
- Pöyry Management Consulting Oy*: Selvitys jätteen energiakäytöstä ja päästökaupasta. Report 2012
- Wong, Diana*: Information note - waste management policy in Netherlands. Publication of the Legislative Council Secretariat 2014.
- Wong, Diana*: Information note – waste management policy in Denmark. Publication of the Legislative Council Secretariat 2014.

Authoritative material

United Kingdom

- Department for Environment, Food and Rural Affairs*: Environmental Permitting Guidance – Exempt waste Operations for the Environmental Permitting (England and Wales) Regulations 2010. Publication of DEFRA, London 2010.
- Department for Environment, Food and Rural Affairs*: Environmental Permitting – general guidance manual on policy and procedures for A2 and B installations, London 2012.
- Department for Environment, Food and Rural Affairs*: Environmental Permitting Guidance – Core guidance for the Environmental Permitting (England and Wales) Regulations 2010. Publication of DEFRA, London 2013.
- Environment Agency*: Working together – your role in our environmental permitting. An Environment Agency publication, Bristol 2010.
- Environment Agency*: Environmental Permitting Regulations Operational Risk Appraisal (Opra of EPR) version 3.9. An Environment Agency publication, Bristol 2014.
- Environmental Agency*: Regulatory Guidance Series No RGN 2 – understanding the meaning of regulated facility. An Environment Agency publication, Bristol 2015.
- Wrap: EfW Development Guidance. 2012.

The Netherlands

- Government of Netherlands*: Main points on simplifying environmental planning legislation in The Netherlands 2012.

Denmark

- Ministry of Infrastructure and the Environment*: All-in-on Permit for Physical Aspects – in a nutshell

Finland

- The Ministry of the Environment*: Memorandum - The interpretation policies of certain Waste Act regulations (Jätelain eräiden säännösten tulkintalinjauksia). Helsinki, 2014.
- Ministry of the Environment*: Project 1 - Streamlining the environmental permit procedure (Ympäristölupamenettelyn sujuvoittaminen). Helsinki 2016.

European Union

- European Commission*: Guidance on permitting and inspection of waste management operations. BiPro, Brussels 2012.
- European Commission*: Practical Manual on permitting and inspection of waste management operations. BiPro, Brussels 2011.

EU regulation

- The European Parliament and Council of the European Union*, Directive 2008/98/EC of 19 November 2008 on waste and repealing certain Directives, OJ L 22.11.2008.
- The European Parliament and Council of the European Union*, Directive 2010/75/EU of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L 17.12.2010

National regulations and rulings

Finland

Administrative Procedure Act 6.6.2003/434 (Hallintolaki)
Environmental Protection Act 27.6.2014/527 (Ympäristönsuojelulaki)
The Constitution of Finland 11.6.1999/731 (Suomen perustuslaki)
Waste Act 17.6.2011/646 (Jätelaki)

United Kingdom

Environmental Permitting Regulations (England and Wales) 2010
Waste (England and Wales) Regulations 2011

Netherlands

Activities Decree (Activiteitenbesluit)
Environmental Management Act (Wet milieubeheer)
Environmental Licensing (General Provisions) Act (Wet algemene bepalingen omgevingsrecht)
Waste Collection Decree (Besluit inzamelen afvalstoffen)

Denmark

Environmental Protection Act no. 1317, 11/11/2015 (Bekendtgørelse lov om miljøbeskyttelse)
Executive Order on Waste registry no.1305, 17/12/2012 (Bekendtgørelse om Affaldsregistret og om godkendelse som indsamlingsvirksomhed)
Statutory Order on Waste no. 1309, 18/12/2012 (Bekendtgørelse om affald)
Order of Environmental Permitting no. 514, 27/5/2016 (Bekendtgørelse om godkendelse af listevirksomhed)
Order on environmental issues for smaller waste treatment plants no. 436 on 15/5/2016 (Bekendtgørelse om miljøforhold for mindre affaldsbehandlingsanlæg)
Order on standard conditions of approval of listed companies no. 519, 27/5/2016 (Bekendtgørelse om standardvilkår i godkendelse af listevirksomhed)

Email Contacts

Email contacts with Michael Skinner, Department for Environment, Food and Rural Affairs, 19.7.2016
Email contacts with Jakob Muller, Ministry of Environmental and Food, 15.6.2016 1.7.2016 and 5.8.2016
Email contacts with Chris Alblas, Rijkswaterstaat Water, Verkeer en Leefomgeving Directie Leefomgeving, 28.6.2016 and 11.8.2016

Internet sources

United Kingdom

- Gov.uk: Environmental management – guidance, 2016. Available at <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit> (24.5.2016).
- Gov.uk: Register as a waste carrier, broker or dealer (England), 2016. Available at <https://www.gov.uk/guidance/a1-installations-environmental-permits> (26.5.2016)
- Gov.uk: A1 installations: environmental permits, 2016. Available at <https://www.gov.uk/guidance/a1-installations-environmental-permits> (26.5.2016)

The Netherlands

- Holland: All-in-one Permit of Physical Aspects (omgevingsvergunning), 2016. Available at <http://www.answersforbusiness.nl/regulation/all-in-one-permit-physical-aspects> (25.5.2016).
- Kenniscentrum InfoMil: Algemene voorschriften voor afvalstoffen. Available at <http://www.infomil.nl/onderwerpen/integrale/activiteitenbesluit/themas/afvalbeheer/algemene/> (5.7.2016)
- Kenniscentrum InfoMil: Toelichting OBM-plicht artikel 2.2a Besluit omgevingsrecht. Available at <http://www.infomil.nl/onderwerpen/integrale/activiteitenbesluit/omgevingsvergunning/toelichting-artikel/> (29.7.2016)
- Ministry of Security and Justice: Apply for a certificate of conduct. Available at <https://www.justis.nl/producten/vog/certificate-of-conduct/index.aspx> (12.10.2016)
- NIWO: Collectors, Transporters, Dealers or Broker of Waste, 2016. Available at <http://www.niwo.nl/pagina/189/aanvragen/afvalstoffen-vihb/dutch-regulation-on-waste-english.html> (3.6.2016)
- Practical Law: Environmental law and practice in the Netherlands – overview, 2013. Available at <http://uk.practicallaw.com/5-503-4243#a95697> (1.6.2016).
- NetRegs: Guidance by environmental topic, 2011. Available at <http://webarchive.nationalarchives.gov.uk/20110302122751/http://www.netregs.gov.uk/netregs/63145.aspx> (27.5.2016).
- Rijkswaterstaat Environment: National Waste Management Plan, 2016. Available at <http://rwsenvironment.eu/subjects/from-waste-resources/national-activities/national-waste/> (27.5.2016).
- Rijkswaterstaat Environment: The system of Environment Regulations in the Netherlands, 2016. Available at <http://rwsenvironment.eu/subjects/environmental/system-environmental/#h13ce3358-7b4f-405a-b793-e163aaf057c4> (1.6.2016)
- Rijkswaterstaat Environment: Activities Decree, 2016. Available at <http://rwsenvironment.eu/subjects/environmental/activities-decree/> (2.6.2016)
- Sanders, Thomas: Permits in the Netherlands – an introduction for foreign Legal Counsel. Available at <https://www.akd.nl/en/b/Pages/Permits-in-the-Netherlands-an-introduction-for-foreign-Legal-Counsel.aspx>, 2015. (8.6.2016)

Denmark

- DAKOFA: Waste regulation in Denmark. Available at <https://dakofa.com/element/test-article-today/> (21.7.2016)
- Ministry of Environment and Food of Denmark. Materials available at <http://eng.mst.dk/> (13.6.2016)
- Ministry of Infrastructure and Environment: Afval Veelgestelde vragen Bia, 2016. Available at https://www.ilent.nl/onderwerpen/leefomgeving/afval/besluit_inzameling_afvalstoffen/veelgestelde_vragen_bia/ (3.6.2016)
- Ministry of Infrastructure and Environment: Affladsregulering. Available at <http://mst.dk/virk-somhed-myndighed/affald/indsamleruddannelsen/affaldsregulering/> (21.7.2016)

European Union

- European Commission: Eurostat – waste statistics 2012. Available at http://ec.europa.eu/eurostat/statistics-explained/index.php/Waste_statistics (21.7.2016)
- European Commission: EU Waste Legislation. Available at <http://ec.europa.eu/environment/waste/legislation/index.htm> (10.6.2016)
- European Commission: Review of Waste Policy and Legislation. Available at http://ec.europa.eu/environment/waste/target_review.htm (1.6.2016)
- European Commission: The Industrial Emissions Directive. Available at <http://ec.europa.eu/environment/industry/stationary/ied/legislation.htm> (20.5.2016)
- European Commission: Waste. Available at <http://ec.europa.eu/environment/waste/> (20.5.2015)

DOCUMENTATION PAGE

<i>Publisher</i>	Ministry of the Environment Environmental Protection Department		<i>Date</i> November 2016	
<i>Author(s)</i>	Nicoleta Kaitazis			
<i>Title of publication</i>	National Implementation of Waste Permitting Obligations in Various European Countries			
<i>Publication series and number</i>	Reports of the Ministry of the Environment 29en 2016			
<i>Theme of publication</i>				
<i>Parts of publication/ other project publications</i>				
<i>Abstract</i>	<p>The report identifies national characteristics of the permit obligations set by the Waste Framework Directive (2008/98/EC) of the European Parliament and of the Council. The report compared the waste policies of Finland, England, the Netherlands and Denmark focusing solely on the permitting scheme. The report demonstrates the possible different solutions Member States have when implementing the Directive and highlights some of the most interesting details in the permitting schemes, which could be potentially used in Finland.</p> <p>Finland has incorporated the permit obligation of the Waste Directive to its national environmental permit, forming one single permit. However, England and the Netherlands have adopted two types of waste permits by establishing a lighter permit for most common waste operations and a heavier permit procedure for establishments and undertakings operating high-risk waste management operations. Denmark has incorporated the obligations of the Directive into its environmental permit but smaller facilities are regulated by a different procedure. The report also demonstrates that the use of the opportunity to exempt certain waste disposal and recovery activities is variable. Finland has seemingly exempted the least amount of waste operations, while England, Denmark and the Netherlands show to have numerous exempt waste operations.</p>			
<i>Keywords</i>	waste, permits, implementation			
<i>Financier/ commissioner</i>	Ministry of the Environment			
	ISBN 978-952-11-4633-6 (PDF)		ISSN 1796-170X (online)	
	<i>No. of pages</i> 41	<i>Language</i> English	<i>Restrictions</i> For public use	
<i>For sale at/ distributor</i>	The publication is available on the internet: http://julkaisut.valtioneuvosto.fi/			
<i>Financier of publication</i>	Ministry of the Environment			
<i>Printing place and year</i>	Helsinki 2016			

KUVAILEHTI

Julkaisija	Ympäristöministeriö Ympäristönsuojeluosasto	Julkaisu-aika Marraskuu 2016		
Tekijä(t)	Nicoleta Kaitazis			
Julkaisun nimi	National Implementation of Waste Permitting Obligations in Various European Countries (Jäteluvitusta koskevien velvoitteiden täytäntöönpano eräissä Euroopan maissa)			
Julkaisusarjan nimi ja numero	Ympäristöministeriön raportteja 29en 2016			
Julkaisun teema				
Julkaisun osat/ muut saman projektin tuottamat julkaisut				
Tiivistelmä	<p>Raportissa tunnistetaan ja arvioidaan kansallisia erityispiirteitä EU:n jätedirektiivin (2008/98/EY) luvanvaraisuuteen ja lupamenettelyiden sisältöön kohdistuvien vaatimusten täytäntöönpanossa. Vertailun kohteena ovat Suomen, Englannin, Alankomaiden ja Tanskan jätelupajärjestelmät. Samalla tunnistetaan jätelupamenettelyn kehittämismahdollisuuksia Suomessa. Raportti osoittaa, että jäsenvaltiot voivat panna täytäntöön jätedirektiivin lupamenettelyvaatimukset monin eri tavoin.</p> <p>Toisin kuin Suomessa, jossa kaikki jätetoiminnot kuuluvat saman ympäristöluvan piiriin, muissa vertailumaisissa on käytössä jaettu lupajärjestelmä. Englannissa ja Hollannissa on käytössä kahden lupatyypin järjestelmä, missä yleisimmät tai vähiten riskejä aiheuttavat toiminnot kuuluvat kevyemmän luvan piriin ja merkittävämät toiminnot käyvät läpi perusteellisemman lupamenettelyn. Tanskassa merkittävimmät jätetoiminnot ovat lupajärjestelmän piirissä, mutta pienemmät toiminnot ovat kevyemmässä menettelyssä. Raportti osoittaa myös, että muut maat ovat hyödyntäneet Suomea useammin jätedirektiiviin perustuvaa mahdollisuutta siirtää toimintoja lupamenettelyn piiristä ilmoitusmenettelyn ja yleisten normien piiriin.</p>			
Asiasanat	jätteet, lupamenettelyt, täytäntöönpano			
Rahoittaja/ toimeksiantaja	Ympäristöministeriö			
	ISBN 978-952-11-4633-6 (PDF)		ISSN 1796-170X (verkkoj.)	
	Sivuja 41	Kieli englanti	Luottamuksellisuus julkinen	
Julkaisun myynti/ jakaja	Julkaisu on saatavana vain internetistä: http://julkaisut.valtioneuvosto.fi/			
Julkaisun kustantaja	Ympäristöministeriö			
Painopaikka ja -aika	Helsinki 2016			

The report identifies national characteristics of the permit obligations set by the Waste Framework Directive (2008/98/EC) of the European Parliament and of the Council. The report compared the waste policies of Finland, England, the Netherlands and Denmark focusing solely on the permitting scheme. The report demonstrates the possible different solutions Member States have when implementing the Directive and highlights some of the most interesting details in the permitting schemes, which could be potentially used in Finland.



Ympäristöministeriö
Miljöministeriet
Ministry of the Environment

ISBN 978-952-11-4633-6 (PDF)
ISSN 1796-170X (online)